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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/664,948	09/19/2000	Rainer Barth	67190/993896	5237
26646	7590	04/20/2004	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			PARTON, KEVIN S	
			ART UNIT	PAPER NUMBER
			2153	9
DATE MAILED: 04/20/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/664,948

Applicant(s)

BARTH, RAINER

Examiner

Kevin Parton

Art Unit

2153

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

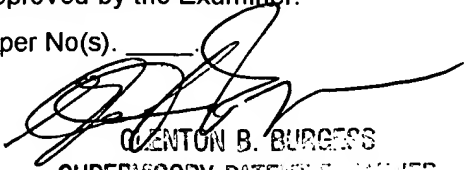
Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-16

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).
10. ☐ Other: _____


QUENTON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Continuation of 5. does NOT place the application in condition for allowance because: The applicant's arguments have been considered but are not persuasive.

The applicant argues that the Sandelman et al. (USPN 6,147,601) patent teaches "a system for monitoring HVAC systems" and that this differs from the Ghanime (USPN 6,591,296) reference and the instant claims because "HVAC systems are generally controlled with the aid of highly complex control instrumentation... It would not be obvious to apply technologies such as that described in the Sandelman patent, to a relatively simple control device ... such as that described in the Ghanime patent... the Sandelman patent relates to an art area that is not analogous" (page 2, paragraph 3). The argument is not persuasive because the reference to Sandelman et al. (USPN 6,147,601) does not limit its function to one type of system in column 8, line 36. Further, the communication framework of Ghanime (USPN 6,591,296) and Sandelman et al. (USPN 6,147,601) is similar and this is what renders obvious the current claims. Specifically, both Ghanime (USPN 6,591,296) and Sandelman et al. (USPN 6,147,601) teach the monitoring of devices and when an exception is discovered, an email is dispatched to parties that may need to be informed of the event. The combination of the two renders the instant claims obvious and stands as presented in the previous Office Action.

Applicant's arguments regarding claims 9-16 are not persuasive for the same reasons shown above.

Regarding claims 2 and 3, the applicant argues that the information in the Kuwabara (USPN 6,065,136) reference is not attached as a file (page 3, paragraph 4). The argument is not persuasive because the information is stored in email memory as a file and it is attached to the body of the message as shown in the cited paragraphs. As such, it is an attached file.

All further arguments are not persuasive for the same reasons shown above.